

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

EDWARD EARL THOMAS,

Plaintiff,

v.

Case Number 03-10256-BC  
Honorable David M. Lawson

EASTERN DISTRICT OF MICHIGAN  
CLERK'S OFFICE, Detroit, Michigan,

Defendant.

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**ORDER DENYING PLAINTIFF'S MOTION TO REINSTATE OR REOPEN**

This matter is before the Court on the plaintiff's motion to reopen or reinstate, which ultimately seeks reconsideration of this Court's July 6, 2004 order adopting Magistrate Judge Charles E. Binder's report recommending that the case be dismissed. The plaintiff states that he has a defacto right of recovery under 42 U.S.C. §§ 1382, 1383.

The Court will grant a motion for reconsideration if the moving party shows: (1) a "palpable defect," (2) that misled the Court and the parties, and (3) that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(g)(3). A "palpable defect" is a defect which is obvious, clear, unmistakable, manifest, or plain. *Fleck v. Titan Tire Corp.*, 177 F. Supp. 2d 605, 624 (E.D. Mich. 2001). Furthermore, the Local Rules provide that any "motion for rehearing or reconsideration which merely present the same issues ruled upon by the Court, either expressly or by reasonable implication, shall not be granted." E.D. Mich. LR 7.1(g)(3). The Court finds that the plaintiff has not shown any palpable defect. The statutory provisions to which the plaintiff cites govern eligibility for certain benefits under the Social Security Act and are plainly not applicable to this case.

Accordingly, it is **ORDERED** that the plaintiff's motion to reopen or reinstate [dkt # 79] is **DENIED**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: February 7, 2006

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 7, 2006.

s/Tracy A. Jacobs  
TRACY A. JACOBS